

Executive Summary – Enforcement Matter – Case No. 47973
AMK Properties L L C dba Amigos Fuel Center
RN105187181
Docket No. 2013-2117-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Amigos Fuel Center, 9977 North IH- 35, Moore, Frio County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2014-0355-PWS-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 11, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,036

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$136

Total Due to General Revenue: \$1,900

Payment Plan: 19 payments of \$100 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 21, 2013

Date(s) of NOE(s): November 6, 2013

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RN105187181
Docket No. 2013-2117-PWS-E

Violation Information

1. Failed to collect at least five routine distribution samples the month following a total coliform-positive result and failed to provide public notice for not conducting increased coliform monitoring [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)].
2. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
3. Failed to provide public notices of the failure to conduct repeat coliform monitoring and routine coliform monitoring [30 TEX. ADMIN. CODE § 290.122(c)(2)(A)].
4. Failed to collect raw groundwater source *Escherichia coli* (“*E. coli*”) samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result and failed to provide public notice of the failure to collect a raw groundwater source *E. coli* samples from each active source within 24 hours of being notified of a distribution total coliform-positive result [30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

- i. Begin complying with applicable coliform monitoring requirements by collecting increased and routine coliform distribution samples, by collecting one raw groundwater source *E. coli* sample from each groundwater source in use at the time the distribution coliform-positive sample was collected, and by providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;
- ii. Update the Facility's operational guidance and conduct employee training to ensure that applicable coliform monitoring requirements are properly accomplished, including the timely collection of increased and routine coliform distribution samples and raw groundwater source *E. coli* samples; and
- iii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility, including but not limited to providing public notification regarding the failure to conduct repeat coliform

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monitoring, the failure to conduct routine coliform monitoring, the failure to conduct increased coliform monitoring, and the failure to collect raw groundwater source *E. coli* samples.

b. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions a.ii. and a.iii.;

c. Within 225 days, submit written certification to demonstrate compliance with Ordering Provision i.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jessica Schildwachter, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-2617; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Amina Maliek, Managing Member, AMK Properties L L C, 809 Almadin, San Antonio, Texas 78258-2902

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES

Assigned
PCW

12-Nov-2013
25-Nov-2013

Screening

25-Nov-2013

EPA Due

31-Dec-2013

RESPONDENT/FACILITY INFORMATION

Respondent AMK Properties L L C dba Amigos Fuel Center
Reg. Ent. Ref. No. RN105187181
Facility/Site Region 13-San Antonio Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 47973
Docket No. 2013-2117-PWS-E
Media Program(s) Public Water Supply
Multi-Media
No. of Violations 1
Order Type Findings
Government/Non-Profit No
Enf. Coordinator Jessica Schildwachter
EC's Team Enforcement Team 5

Admin. Penalty \$ Limit Minimum

\$50

Maximum

\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 87.0% Enhancement Subtotals 2, 3, & 7 \$87

Notes Enhancement for eight NOV's with same/similar violations, one NOV with dissimilar violations, one order with denial of liability, and one order without denial of liability.

Culpability No 0.0% Enhancement

Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5 \$0

Economic Benefit

Total EB Amounts \$9
Approx. Cost of Compliance \$105

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$187

OTHER FACTORS AS JUSTICE MAY REQUIRE

2.7%

Adjustment \$5

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Enhancement for the recovery of avoided costs associated with Violation No. 1.

Final Penalty Amount \$192

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$192

DEFERRAL

0.0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$192

Screening Date 25-Nov-2013

Docket No. 2013-2117-PWS-E

PCW

Respondent AMK Properties L L C dba Amigos Fuel Center

Policy Revision 2 (September 2002)

Case ID No. 47973

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105187181

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	8	40%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 87%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for eight NOVs with same/similar violations, one NOV with dissimilar violations, one order with denial of liability, and one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 87%

Screening Date 25-Nov-2013

Docket No. 2013-2117-PWS-E

PCW

Respondent AMK Properties L L C dba Amigos Fuel Center

Policy Revision 2 (September 2002)

Case ID No. 47973

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105187181

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.122(c)(2)(A)

Violation Description

Failed to provide public notice of the failure to conduct routine coliform monitoring for the month of December 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$192

This violation Final Assessed Penalty (adjusted for limits) \$192

Economic Benefit Worksheet

Respondent AMK Properties L L C dba Amigos Fuel Center

Case ID No. 47973

Reg. Ent. Reference No. RN105187181

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	21-Oct-2013	22-Aug-2014	0.84	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner, calculated from the record review date to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$5	1-Jan-2011	31-Mar-2011	1.16	\$0	\$5	\$5
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide public notification of the failure to conduct coliform monitoring (\$5 per notice), calculated for the period in which the public notice was required.

Approx. Cost of Compliance

\$105

TOTAL

\$9



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	12-Nov-2013	Screening	25-Nov-2013	EPA Due	31-Dec-2013
	PCW	25-Nov-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	AMK Properties L L C dba Amigos Fuel Center				
Reg. Ent. Ref. No.	RN105187181				
Facility/Site Region	13-San Antonio		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	47973	No. of Violations	4
Docket No.	2013-2117-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jessica Schildwachter
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$850**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **87.0%** Enhancement **Subtotals 2, 3, & 7** **\$739**

Notes: Enhancement for eight NOV's with same/similar violations, one NOV with dissimilar violations, one order with denial of liability, and one order without denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$260
Approx. Cost of Compliance \$395
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,589**

OTHER FACTORS AS JUSTICE MAY REQUIRE **16.0%** **Adjustment** **\$255**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the recovery of avoided costs associated with Violation Nos. 1, 2, 3, and 4.

Final Penalty Amount **\$1,844**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,844**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$1,844**

Screening Date 25-Nov-2013

Docket No. 2013-2117-PWS-E

PCW

Respondent AMK Properties L L C dba Amigos Fuel Center

Policy Revision 3 (September 2011)

Case ID No. 47973

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105187181

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	8	40%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 87%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for eight NOVs with same/similar violations, one NOV with dissimilar violations, one order with denial of liability, and one order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 87%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 87%

Screening Date 25-Nov-2013

Docket No. 2013-2117-PWS-E

PCW

Respondent AMK Properties L L C dba Amigos Fuel Center

Policy Revision 3 (September 2011)

Case ID No. 47973

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105187181

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)

Violation Description

Failed to collect at least five routine distribution samples the month following a total coliform-positive result and failed to provide public notice for not conducting increased coliform monitoring. Specifically, the Respondent did not submit the required distribution samples in the month of June 2013 and did not provide public notice for not conducting increased coliform monitoring for the month of June 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Failure to conduct increased sampling and provide public notice could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$150

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$136

Violation Final Penalty Total \$326

This violation Final Assessed Penalty (adjusted for limits) \$326

Economic Benefit Worksheet

Respondent AMK Properties L L C dba Amigos Fuel Center
Case ID No. 47973
Reg. Ent. Reference No. RN105187181
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	21-Oct-2013	22-Aug-2014	0.84	\$2	n/a	\$2
Training/Sampling	\$100	21-Oct-2013	22-Aug-2014	0.84	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that all required coliform distribution samples, including routine, repeat, and groundwater source Escherichia coli samples are collected, calculated from the record review date to the estimated date of compliance. The other delayed costs are included in Violation No. 1 of PCW Revision No. 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$125	1-Jun-2013	30-Jun-2013	0.00	\$0	\$125	\$125
Other (as needed)	\$5	1-Jul-2013	30-Sep-2013	1.17	\$0	\$5	\$5

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect required routine samples (\$25 per sample), calculated for the month the samples were due and the estimated amount to provide public notification of the failure to conduct increased coliform monitoring (\$5 per notification).

Approx. Cost of Compliance

\$275

TOTAL

\$136

Screening Date 25-Nov-2013

Docket No. 2013-2117-PWS-E

PCW

Respondent AMK Properties L L C dba Amigos Fuel Center

Policy Revision 3 (September 2011)

Case ID No. 47973

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105187181

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(2)(A)(i) and Tex. Health & Safety Code § 341.033(d)

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the months of July and August 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect routine coliform samples could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

62 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$300

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$53

Violation Final Penalty Total \$651

This violation Final Assessed Penalty (adjusted for limits) \$651

Economic Benefit Worksheet

Respondent AMK Properties L L C dba Amigos Fuel Center
Case ID No. 47973
Reg. Ent. Reference No. RN105187181
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs are included in the economic benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$50	1-Jul-2013	31-Aug-2013	1.08	\$3	\$50	\$53
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to conduct routine coliform sampling (\$25 per sample), calculated for the months sampling was not conducted.

Approx. Cost of Compliance

\$50

TOTAL

\$53

Screening Date 25-Nov-2013

Docket No. 2013-2117-PWS-E

PCW

Respondent AMK Properties L L C dba Amigos Fuel Center

Policy Revision 3 (September 2011)

Case ID No. 47973

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105187181

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.122(c)(2)(A)

Violation Description

Failed to provide public notices of the failure to conduct repeat coliform monitoring for the month of January 2013 and routine coliform monitoring for the month of February 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 2

59 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

Two single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$217

This violation Final Assessed Penalty (adjusted for limits) \$217

Economic Benefit Worksheet

Respondent AMK Properties L L C dba Amigos Fuel Center
Case ID No. 47973
Reg. Ent. Reference No. RN105187181
Media Public Water Supply
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs are included in Violation No. 1 of the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$10	1-Feb-2013	30-Jun-2013	1.33	\$1	\$10	\$11
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide public notification of the failure to conduct coliform monitoring (\$5 per notice), calculated for the period in which the public notice was required.

Approx. Cost of Compliance \$10

TOTAL \$11

Screening Date 25-Nov-2013

Docket No. 2013-2117-PWS-E

PCW

Respondent AMK Properties L L C dba Amigos Fuel Center

Policy Revision 3 (September 2011)

Case ID No. 47973

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105187181

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(4)(B) and 290.122(c)(2)(A)

Violation Description

Failed to collect raw groundwater source Escherichia coli samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result during the months of January and May 2013 and failed to provide public notice of the failure to collect a raw groundwater source Escherichia coli samples from each active source within 24 hours of being notified of a distribution total coliform-positive result for January 2013 and May 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to perform raw groundwater source monitoring and provide public notice could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

62 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$300

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$61

Violation Final Penalty Total \$651

This violation Final Assessed Penalty (adjusted for limits) \$651

Economic Benefit Worksheet

Respondent AMK Properties L L C dba Amigos Fuel Center
Case ID No. 47973
Reg. Ent. Reference No. RN105187181
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs of compliance are included in Violation No. 1 of this PCW and in Violation No. 1 of the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$10	24-Jan-2013	2-Aug-2013	1.44	\$1	\$10	\$11
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	24-Jan-2013	25-Jan-2013	0.00	\$0	\$25	\$25
Other (as needed)	\$25	2-May-2013	3-May-2013	0.00	\$0	\$25	\$25

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect raw groundwater source samples (\$25 per sample x 2 missed samples), calculated for the 24-hour period after the coliform-positive results. The other avoided cost includes the estimated amount to provide public notification (\$5 per notice x 2 notifications), calculated for the period public notices should have been provided.

Approx. Cost of Compliance

\$60

TOTAL

\$61



Compliance History Report

PUBLISHED Compliance History Report for CN603488701, RN105187181, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN603488701, AMK Properties L L C	Classification:	SATISFACTORY	Rating:	13.63
Regulated Entity:	RN105187181, AMIGOS FUEL CENTER	Classification:	SATISFACTORY	Rating:	45.00
Complexity Points:	2	Repeat Violator:	NO		
CH Group:	01 - Gas Stations with convenience Stores and other Gas Stations				
Location:	9977 NORTH INTERSTATE 35 MOORE, FRIO COUNTY, TX				
TCEQ Region:	REGION 13 - SAN ANTONIO				

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION
78454

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
455130104

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0820017

Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year:	2013	Rating Date:	09/01/2013
Date Compliance History Report Prepared:	December 02, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	December 02, 2008 to December 02, 2013				

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Rebecca Johnson

Phone: (361) 825-3423

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 04/09/2010 ADMINORDER 2009-1123-PWS-E (Findings Order-Default)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 07/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 01/2009 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 01/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 02/2009 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 02/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 03/2009 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 03/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)

30 TAC Chapter 334, SubChapter C 334.50(b)(2)

Description: Failed to provide release detection for the piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 3, 2012. Specifically, the Respondent did not conduct the annual piping tightness and line leak detector tests.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)

Description: Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 03/27/2013 (1128651)	CN603488701	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B) 30 TAC Chapter 290, SubChapter F 290.109(e)		
	Description: GWR Triggered Source MR Violation 01/2013 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result for 1 source(s) within the required timeline.		
2	Date: 05/21/2013 (1128651)	CN603488701	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)		
	Description: JAN/2013 TCR Repeat MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct repeat coliform monitoring for the month of 01/2013.		
3	Date: 06/21/2013 (1128651)	CN603488701	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)		
	Description: FEB/2013 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 02/2013.		
4	Date: 08/01/2013 (1128651)	CN603488701	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B) 30 TAC Chapter 290, SubChapter F 290.109(e)		
	Description: GWR Triggered Source MR Violation 05/2013 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result for 1 source(s) within the required timeline.		
5	Date: 08/08/2013 (1128651)	CN603488701	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F) 30 TAC Chapter 290, SubChapter F 290.109(e)		

Description: TCR Increase MR Violation 06/2013 - Failure to collect and/or submit within the required timeline any of the 5 distribution samples following a coliform found month.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: JAN/2013 GWR Triggered Source Monitoring PN Posting and Reporting
Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct triggered source monitoring for the month of 01/2013.

6

Date: 09/13/2013 (1116583) CN603488701

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to properly maintain the water production facility.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)

Description: Failure to house the hypochlorination solution container and pump in a secure enclosure to protect them from adverse weather conditions and vandalism.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to provide a properly constructed well concrete sealing block.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(i)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)

Description: Failure to make records of operations available for review during an investigation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to prepare a monitoring plan for the water system.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to prepare a distribution map of the water system.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Description: Failure to maintain copies of the well drillers log, records of cementing information and a copy of the sanitary control easement(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to provide a plant operations manual.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failure to calibrate the well meter once every three years.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(1)

Description: Failure to use an acceptable method for determining the disinfection residual.

7

Date: 09/20/2013 (1128651) CN603488701

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

30 TAC Chapter 290, SubChapter F 290.109(f)(5)

30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine MR Violation 07/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

8

Date: 10/14/2013 (1128651) CN603488701

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

30 TAC Chapter 290, SubChapter F 290.109(f)(5)

30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine MR Violation 08/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

9

Date: 10/21/2013 (1128651) CN603488701

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: JUN/2013 TCR Increase MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct increase coliform monitoring for the month of 06/2013.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AMK PROPERTIES L L C DBA
AMIGOS FUEL CENTER
RN105187181

§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2013-2117-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding AMK Properties L L C dba Amigos Fuel Center ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 9977 North Interstate 35 in Moore, Frio County, Texas (the "Facility") that has approximately one service connection and serves at least 25 people per day for at least 60 days per year.

2. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. During a record review conducted on October 21, 2013, TCEQ staff documented that the Respondent did not collect at least five routine distribution samples the month following a total coliform-positive result for the month of June 2013 and did not provide public notice for not conducting increased coliform monitoring for the month of June 2013.
4. During a record review conducted on October 21, 2013, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of July and August 2013.
5. During a record review conducted on October 21, 2013, TCEQ staff documented that the Respondent did not provide public notices of the failure to conduct repeat coliform monitoring for the month of January 2013 and routine coliform monitoring for the months of December 2010 and February 2013.
6. During a record review conducted on October 21, 2013, TCEQ staff documented that the Respondent did not collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result during the months of January and May 2013 and did not provide public notice of the failure to collect a raw groundwater source *Escherichia coli* samples from each active source within 24 hours of being notified of a distribution total coliform-positive result for January 2013 and May 2013.
7. The Respondent received notice of the violations on November 11, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to collect at least five routine distribution samples the month following a total coliform-positive result and failed to provide public notice for not conducting increased coliform monitoring, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to provide public notices of the failure to conduct repeat coliform monitoring and routine coliform monitoring, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A).

5. As evidenced by Findings of Fact No. 6, the Respondent failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result and failed to provide public notice of the failure to collect a raw groundwater source *Escherichia coli* samples from each active source within 24 hours of being notified of a distribution total coliform-positive result, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Two Thousand Thirty-Six Dollars (\$2,036) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid One Hundred Thirty-Six Dollars (\$136) of the administrative penalty. The remaining amount of One Thousand Nine Hundred Dollars (\$1,900) of the administrative penalty shall be payable in 19 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Thirty-Six Dollars (\$2,036) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: AMK Properties L L C dba Amigos Fuel Center, Docket No. 2013-2117-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed order:
 - i. Begin complying with applicable coliform monitoring requirements by collecting increased and routine coliform distribution samples, by collecting one raw groundwater source *Escherichia coli* sample from each groundwater source in use at the time the distribution coliform-positive sample was collected, and by providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that applicable coliform monitoring requirements are properly accomplished, including the timely collection of increased and routine coliform distribution samples and raw groundwater source *Escherichia coli* samples, as required by 30 TEX. ADMIN. CODE § 290.109; and
 - iii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility, including but not limited to providing public notification regarding the failure to conduct repeat coliform monitoring, the failure to conduct routine coliform monitoring, the failure to conduct increased coliform monitoring, and the failure to collect raw groundwater source *Escherichia coli* samples, in accordance with 30 TEX. ADMIN. CODE § 290.122.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.ii. and 2.a.iii.;
 - c. Within 225 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i.; and
 - d. The certifications required by Ordering Provision Nos. 2.b. and 2.c. shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela Davis
For the Executive Director

5/26/14
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of AMK Properties L L C dba Amigos Fuel Center. I am authorized to agree to the attached Agreed Order on behalf of AMK Properties L L C dba Amigos Fuel Center, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, AMK Properties L L C dba Amigos Fuel Center waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Pamela Davis
Signature

3/13/14
Date

Pamela Davis
Name (Printed or typed)
Authorized Representative of
AMK Properties L L C dba Amigos Fuel Center

CEO
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.